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16 UNITED STATES OF AMERICA

17 UNITED STATES DISTRICT COURT

18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

19 UNITED STATES OF AMERICA,

20 No. CR 2:23-00262-DSF-1

21 Plaintiff,

22 PLEA AGREEMENT FOR DEFENDANT  
23 RAYVIONE DATUAN MOUTON

24 v.

25 RAYVIONE DATUAN MOUTON,

26 Defendant.

27 1. This constitutes the plea agreement between RAYVIONE DATUAN  
28 MOUTON ("defendant") and the United States Attorney's Office for the  
1 Central District of California (the "USAO") in Case No. 2:23-CR-  
2 00262-DSF-1. This agreement is limited to the USAO and cannot bind  
3 any other federal, state, local, or foreign prosecuting, enforcement,  
4 administrative, or regulatory authorities.

5 DEFENDANT'S OBLIGATIONS

6 2. Defendant agrees to:

7 a. At the earliest opportunity requested by the USAO and  
8 provided by the Court, appear and plead guilty to Count One of the  
9 indictment in United States v. RAYVIONE DATUAN MOUTON, CR No. 2:23-  
10

1 00262-DSF-1, which charges defendant with Conspiracy to Distribute  
2 and Possess with Intent to Distribute Fentanyl in violation of 21  
3 U.S.C. §§ 846, 841(a)(1), (b)(1)(C).

4 b. Not contest facts agreed to in this agreement.

5 c. Abide by all agreements regarding sentencing contained  
6 in this agreement.

7 d. Appear for all court appearances, surrender as ordered  
8 for service of sentence, obey all conditions of any bond, and obey  
9 any other ongoing court order in this matter.

10 e. Not commit any crime; however, offenses that would be  
11 excluded for sentencing purposes under United States Sentencing  
12 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not  
13 within the scope of this agreement.

14 f. Be truthful at all times with the United States  
15 Probation and Pretrial Services Office and the Court.

16 g. Pay the applicable special assessment at or before the  
17 time of sentencing unless defendant has demonstrated a lack of  
18 ability to pay such assessment.

19 h. Agree to and not oppose the imposition of the  
20 following condition of probation or supervised release:

21 i. The defendant shall submit defendant's person and  
22 any property under defendant's control, including any residence,  
23 vehicle, papers, computer and other electronic communication or data  
24 storage devices and media, and effects, to suspicion-less search and  
25 seizure at any time of the day or night by any law enforcement or  
26 probation officer, with or without a warrant, and with or without  
27 cause; and if stopped or questioned by a law enforcement officer for  
28

1 any reason, defendant shall notify that officer that defendant is on  
2 federal supervised release and subject to search.

3 THE USAO'S OBLIGATIONS

4 3. The USAO agrees to:

5 a. Not contest facts agreed to in this agreement.

6 b. Abide by all agreements regarding sentencing contained  
7 in this agreement.

8 c. At the time of sentencing, provided that defendant  
9 demonstrates an acceptance of responsibility for the offense up to  
10 and including the time of sentencing, recommend a two-level reduction  
11 in the applicable Sentencing Guidelines offense level, pursuant to  
12 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an  
13 additional one-level reduction if available under that section.

14 d. At the time of sentencing, move to dismiss the  
15 remaining counts in the indictment as against defendant. Defendant  
16 agrees, however, that at the time of sentencing the Court may  
17 consider any dismissed charges in determining the applicable  
18 Sentencing Guidelines range, the propriety and extent of any  
19 departure from that range, and the sentence to be imposed.

20 NATURE OF THE OFFENSE

21 4. Defendant understands that for defendant to be guilty of  
22 the crime charged in Count One, that is, Conspiracy to Distribute and  
23 Possess with Intent to Distribute Fentanyl, in violation of Title 21,  
24 United States Code, Sections 846, 841(a)(1), (b)(1)(C), the following  
25 must be true: (1) There was an agreement between two or more persons  
26 to distribute or to possess with intent to distribute fentanyl; and  
27 (2) defendant joined in the agreement knowing of its purpose and  
28 intending to help accomplish that purpose.

5. The elements of the crime of Distribution of Fentanyl, in violation of Title 21, Sections 841(a)(1), (b)(1)(C), which is an object of the conspiracy, are as follows: (1) a person knowingly distributed fentanyl; and (2) the person knew the distributed substance was fentanyl or some other federally controlled substance.

6. The elements of the crime of Possession with Intent to Distribute Fentanyl, in violation of Title 21, United States Code, Section 841(a) (1), (b) (1) (C), which is an object of the conspiracy, are as follows: (1) a person knowingly possessed fentanyl; and (2) the person possessed the fentanyl with the intent to distribute it to another person. It does not matter whether the person knew that the substance was fentanyl. It is sufficient that the person knew that it was some kind of a federally controlled substance. To "possess with intent to distribute" means to possess with intent to deliver or transfer possession of a controlled substance to another person, with or without any financial interest in the transaction.

## PENALTIES

7. Defendant understands that the statutory maximum sentence that the Court can impose for a violation of Title 21, United States Code, Section 846, as charged in Count One of the Indictment, is: 20 years' imprisonment; a lifetime period of supervised release; a fine of \$1,000,000 or twice the gross gain or gross loss resulting from the offense, whichever is greatest; and a mandatory special assessment of \$100.

8. Defendant understands that, if the Court imposes a term of imprisonment for a violation of Title 21, United States Code, Section 846, as charged in Count One, and absent a determination by the Court that defendant's case satisfies the criteria set forth in 18 U.S.C.

1       § 3553(f), the Court must impose a statutory mandatory minimum of at  
2 least a three-year period of supervised release to follow a term of  
3 imprisonment and a mandatory special assessment of \$100.

4       9. Defendant understands that under 21 U.S.C. § 862a,  
5 defendant will not be eligible for assistance under state programs  
6 funded under the Social Security Act or Federal Food Stamp Act or for  
7 federal food stamp program benefits, and that any such benefits or  
8 assistance received by defendant's family members will be reduced to  
9 reflect defendant's ineligibility.

10      10. Defendant understands that supervised release is a period  
11 of time following imprisonment during which defendant will be subject  
12 to various restrictions and requirements. Defendant understands that  
13 if defendant violates one or more of the conditions of any supervised  
14 release imposed, defendant may be returned to prison for all or part  
15 of the term of supervised release authorized by statute for the  
16 offense that resulted in the term of supervised release.

17      11. Defendant understands that, by pleading guilty, defendant  
18 may be giving up valuable government benefits and valuable civic  
19 rights, such as the right to vote, the right to possess a firearm,  
20 the right to hold office, and the right to serve on a jury. Defendant  
21 understands that he is pleading guilty to a felony and that it is a  
22 federal crime for a convicted felon to possess a firearm or  
23 ammunition. Defendant understands that the conviction in this case  
24 may also subject defendant to various other collateral consequences,  
25 including but not limited to revocation of probation, parole, or  
supervised release in another case and suspension or revocation of a  
professional license. Defendant understands that unanticipated

collateral consequences will not serve as grounds to withdraw defendant's guilty plea.

12. Defendant and his counsel have discussed the fact that, and defendant understands that, if defendant is not a United States citizen, the conviction in this case makes it practically inevitable and a virtual certainty that defendant will be removed or deported from the United States. Defendant may also be denied United States citizenship and admission to the United States in the future.

Defendant understands that while there may be arguments that defendant can raise in immigration proceedings to avoid or delay removal, removal is presumptively mandatory and a virtual certainty in this case. Defendant further understands that removal and immigration consequences are the subject of a separate proceeding and that no one, including his attorney or the Court, can predict to an absolute certainty the effect of his conviction on his immigration status. Defendant nevertheless affirms that he wants to plead guilty regardless of any immigration consequences that his plea may entail, even if the consequence is automatic removal from the United States.

## FACTUAL BASIS

13. Defendant admits that defendant is, in fact, guilty of the offense to which defendant is agreeing to plead guilty. Defendant and the USAO agree to the statement of facts provided below and agree that this statement of facts is sufficient to support a plea of guilty to the charges described in this Agreement and to establish the Sentencing Guidelines factors set forth in paragraph 15 below but is not meant to be a complete recitation of all facts relevant to the underlying criminal conduct or all facts known to either party that relate to that conduct.

1 Beginning on an unknown date and continuing through  
2 approximately September 11, 2022, in Los Angeles County, within the  
3 Central District of California, and elsewhere, defendant conspired  
4 and agreed with other known and unknown co-conspirators to knowingly  
5 and intentionally distribute and to possess with intent to distribute  
6 fentanyl, a Schedule II controlled substance.

7 In furtherance of the conspiracy, on or about September 11,  
8 2022, defendant and his co-conspirator Arte Junge Miura, Jr.  
9 ("Miura") traveled to Los Angeles International Airport in the same  
10 car and walked into the airport together, each carrying a backpack  
11 and intending to board the same flight to Louisville, Kentucky. At  
12 the airport, defendant and Miura each attempted to move their  
13 respective backpack through a security checkpoint. Each backpack  
14 contained several over-the-counter pill bottles filled with light  
15 blue colored pills containing fentanyl. At the time, defendant and  
16 Miura knew they were in possession of fentanyl or some other  
17 federally controlled substance and they intended and agreed that they  
18 would distribute the pills to another person. In total, the pills in  
19 defendant's backpack had a net weight of approximately 2.195  
20 kilograms, and the pills in Miura's backpack had a net weight of  
21 approximately 2.538 kilograms.

22 SENTENCING FACTORS

23 14. Defendant understands that in determining defendant's  
24 sentence the Court is required to calculate the applicable Sentencing  
25 Guidelines range and to consider that range, possible departures  
26 under the Sentencing Guidelines, and the other sentencing factors set  
27 forth in 18 U.S.C. § 3553(a). Defendant understands that the  
28 Sentencing Guidelines are advisory only, that defendant cannot have

1 any expectation of receiving a sentence within the calculated  
2 Sentencing Guidelines range, and that after considering the  
3 Sentencing Guidelines and the other § 3553(a) factors, the Court will  
4 be free to exercise its discretion to impose any sentence it finds  
5 appropriate between the mandatory minimum and up to the maximum set  
6 by statute for the crimes of conviction.

7 15. Defendant and the USAO agree to the following applicable  
8 Sentencing Guidelines factors:

9 Base Offense Level: 34 U.S.S.G. § 2D1.1(a) (5), (c) (3)  
10 [For at least 4 KG  
but less than 12 KG  
of Fentanyl]

12 Defendant and the USAO reserve the right to argue that additional  
13 specific offense characteristics, adjustments, and departures under  
14 the Sentencing Guidelines are appropriate. Defendant understands  
15 that defendant's offense level could be increased if defendant is a  
16 career offender under U.S.S.G. §§ 4B1.1 and 4B1.2. If defendant's  
17 offense level is so altered, defendant and the USAO will not be bound  
18 by the agreement to Sentencing Guideline factors set forth above.

19 16. Defendant and the USAO agree that:

20 a. Defendant did not use violence or credible threats of  
21 violence or possess a firearm or other dangerous weapon (or induce  
22 another participant to do so) in connection with the offense charged  
23 in Count One;

24 b. The offense charged in Count One did not result in  
25 death or serious bodily injury to any person; and

26 c. Defendant was not an organizer, leader, manager, or  
27 supervisor of others in the offense charged in Count One and was not  
28 engaged in a continuing criminal enterprise.

17. Because the safety valve criteria in U.S.S.G. § 5C1.2(a)(1) has not been updated to match the language of 18 U.S.C. § 3553(f)(1), if the Court determines that defendant's case satisfies the criteria in 18 U.S.C. § 3553(f), but does not satisfy the criteria for a two-level reduction under U.S.S.G. § 2D1.1(b)(18) (referencing the criteria set forth in U.S.S.G. § 5C1.2(a)(1)), the USAO will recommend a two-level downward variance to defendant's Sentencing Guidelines range based on the factors set forth in 18 U.S.C. § 3553(a). By making any such recommendation, the USAO does not waive any objection to the Court's determination that the criteria in 18 U.S.C. § 3553(f) have been satisfied. If the USAO makes a two-level variance recommendation as described herein, defendant agrees not to seek a further reduced sentence pursuant to 18 U.S.C. § 3582(c)(2) in the event the United States Sentencing Commission amends U.S.S.G. § 5C1.2(a)(1) to match the language of 18 U.S.C. § 3553(f)(1).

18. Defendant understands that there is no agreement as to defendant's criminal history or criminal history category.

19. Defendant and the USAO reserve the right to argue for a sentence outside the sentencing range established by the Sentencing Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1), (a)(2), (a)(3), (a)(6), and (a)(7).

## WAIVER OF CONSTITUTIONAL RIGHTS

20. Defendant understands that by pleading guilty, defendant gives up the following rights:

- a. The right to persist in a plea of not guilty.
- b. The right to a speedy and public trial by jury.
- c. The right to be represented by counsel -- and if  
have the Court appoint counsel -- at trial. Defendant

1 understands, however, that, defendant retains the right to be  
2 represented by counsel -- and if necessary have the Court appoint  
3 counsel -- at every other stage of the proceeding.

4                   d.     The right to be presumed innocent and to have the  
5 burden of proof placed on the United States to prove defendant guilty  
6 beyond a reasonable doubt.

7                   e.     The right to confront and cross-examine witnesses  
8 against defendant.

12 g. The right not to be compelled to testify, and, if  
13 defendant chose not to testify or present evidence, to have that  
14 choice not be used against defendant.

15 h. Any and all rights to pursue any affirmative defenses,  
16 Fourth Amendment or Fifth Amendment claims, and other pretrial  
17 motions that have been filed or could be filed.

WAIVER OF APPEAL OF CONVICTION

19       21. Defendant understands that, with the exception of an appeal  
20 based on a claim that defendant's guilty plea was involuntary, by  
21 pleading guilty defendant is waiving and giving up any right to  
22 appeal defendant's conviction on the offense to which defendant is  
23 pleading guilty. Defendant understands that this waiver includes,  
24 but is not limited to, arguments that the statutes to which defendant  
25 is pleading guilty are unconstitutional, and any and all claims that  
26 the statement of facts provided herein is insufficient to support  
27 defendant's plea of guilty.

LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

22. Defendant agrees that, provided the Court imposes a term of imprisonment within or below the range corresponding to an offense level of 37 and the criminal history category calculated by the Court, defendant gives up the right to appeal all of the following:

(a) the procedures and calculations used to determine and impose any portion of the sentence; (b) the term of imprisonment imposed by the Court; (c) the fine imposed by the Court, provided it is within the statutory maximum; (d) to the extent permitted by law, the constitutionality or legality of defendant's sentence, provided it is within the statutory maximum; (e) the term of probation or supervised release imposed by the Court, provided it is within the statutory maximum; and (f) any of the following conditions of probation or supervised release imposed by the Court: the conditions set forth in Second Amended General Order 20-04 of this Court; the drug testing conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); the alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7); and any conditions of probation or supervised release agreed to by defendant in paragraph 2 above.

23. Defendant also gives up any right to bring a post-conviction collateral attack on the convictions or sentence, except a post-conviction collateral attack based on a claim of ineffective assistance of counsel, a claim of newly discovered evidence, or an explicitly retroactive change in the applicable Sentencing Guidelines, sentencing statutes, or statutes of conviction.

Defendant understands that this waiver includes, but is not limited to, arguments that the statutes to which defendant is pleading guilty are unconstitutional, and any and all claims that the statement of

1 facts provided herein is insufficient to support defendant's plea of  
2 guilty.

3       24. The USAO agrees that, provided (a) all portions of the  
4 sentence are at or above the statutory minimum and at or below the  
5 statutory maximum specified above and (b) the Court imposes a term of  
6 imprisonment within or below the range corresponding to an offense  
7 level of 37 and the criminal history category calculated by the  
8 Court, the USAO gives up its right to appeal any portion of the  
9 sentence.

RESULT OF WITHDRAWAL OF GUILTY PLEA

11       25. Defendant agrees that if, after entering a guilty plea  
12 pursuant to this agreement, defendant seeks to withdraw and succeeds  
13 in withdrawing defendant's guilty plea on any basis other than a  
14 claim and finding that entry into this plea agreement was  
15 involuntary, then (a) the USAO will be relieved of all of its  
16 obligations under this agreement; and (b) should the USAO choose to  
17 pursue any charge that was either dismissed or not filed as a result  
18 of this agreement, then (i) any applicable statute of limitations  
19 will be tolled between the date of defendant's signing of this  
20 agreement and the filing commencing any such action; and  
21 (ii) defendant waives and gives up all defenses based on the statute  
22 of limitations, any claim of pre-indictment delay, or any speedy  
23 trial claim with respect to any such action, except to the extent  
24 that such defenses existed as of the date of defendant's signing this  
25 agreement.

EFFECTIVE DATE OF AGREEMENT

26. This agreement is effective upon signature and execution of all required certifications by defendant, defendant's counsel, and an Assistant United States Attorney.

## BREACH OF AGREEMENT

6       27. Defendant agrees that if defendant, at any time after the  
7       signature of this agreement and execution of all required  
8       certifications by defendant, defendant's counsel, and an Assistant  
9       United States Attorney, knowingly violates or fails to perform any of  
10       defendant's obligations under this agreement ("a breach"), the USAO  
11       may declare this agreement breached. All of defendant's obligations  
12       are material, a single breach of this agreement is sufficient for the  
13       USAO to declare a breach, and defendant shall not be deemed to have  
14       cured a breach without the express agreement of the USAO in writing.  
15       If the USAO declares this agreement breached, and the Court finds  
16       such a breach to have occurred, then: (a) if defendant has previously  
17       entered a guilty plea pursuant to this agreement, defendant will not  
18       be able to withdraw the guilty plea, and (b) the USAO will be  
19       relieved of all its obligations under this agreement.

20       28. Following the Court's finding of a knowing breach of this  
21 agreement by defendant, should the USAO choose to pursue any charge  
22 that was either dismissed or not filed as a result of this agreement,  
23 then:

24                   a.    Defendant agrees that any applicable statute of  
25 limitations is tolled between the date of defendant's signing of this  
26 agreement and the filing commencing any such action.

1 speedy trial claim with respect to any such action, except to the  
2 extent that such defenses existed as of the date of defendant's  
3 signing this agreement.

4 c. Defendant agrees that: (i) any statements made by  
5 defendant, under oath, at the guilty plea hearing (if such a hearing  
6 occurred prior to the breach); (ii) the agreed to factual basis  
7 statement in this agreement; and (iii) any evidence derived from such  
8 statements, shall be admissible against defendant in any such action  
9 against defendant, and defendant waives and gives up any claim under  
10 the United States Constitution, any statute, Rule 410 of the Federal  
11 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal  
12 Procedure, or any other federal rule, that the statements or any  
13 evidence derived from the statements should be suppressed or are  
14 inadmissible.

COURT AND UNITED STATES PROBATION AND PRETRIAL SERVICES

OFFICE NOT PARTIES

17       29. Defendant understands that the Court and the United States  
18 Probation and Pretrial Services Office are not parties to this  
19 agreement and need not accept any of the USAO's sentencing  
20 recommendations or the parties' agreements to facts or sentencing  
21 factors.

22       30. Defendant understands that both defendant and the USAO are  
23 free to: (a) supplement the facts by supplying relevant information  
24 to the United States Probation and Pretrial Services Office and the  
25 Court, (b) correct any and all factual misstatements relating to the  
26 Court's Sentencing Guidelines calculations and determination of  
27 sentence, and (c) argue on appeal and collateral review that the  
28 Court's Sentencing Guidelines calculations and the sentence it

chooses to impose are not error, although each party agrees to maintain its view that the calculations in paragraph 13 are consistent with the facts of this case. While this paragraph permits both the USAO and defendant to submit full and complete factual information to the United States Probation and Pretrial Services Office and the Court, even if that factual information may be viewed as inconsistent with the facts agreed to in this agreement, this paragraph does not affect defendant's and the USAO's obligations not to contest the facts agreed to in this agreement.

31. Defendant understands that even if the Court ignores any sentencing recommendation, finds facts or reaches conclusions different from those agreed to, and/or imposes any sentence up to the maximum established by statute, defendant cannot, for that reason, withdraw defendant's guilty plea, and defendant will remain bound to fulfill all defendant's obligations under this agreement. Defendant understands that no one -- not the prosecutor, defendant's attorney, or the Court -- can make a binding prediction or promise regarding the sentence defendant will receive, except that it will be within the statutory maximum.

NO ADDITIONAL AGREEMENTS

32. Defendant understands that, except as set forth herein, there are no promises, understandings, or agreements between the USAO and defendant or defendant's attorney, and that no additional promise, understanding, or agreement may be entered into unless in a writing signed by all parties or on the record in court.

PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

33. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE  
FOR THE CENTRAL DISTRICT OF  
CALIFORNIA

E. MARTIN ESTRADA  
United States Attorney

~~KELSEY A. STIMSON~~

Assist  DocuSigned by: States Attorney

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RAYVIONE DATUAN MOUTON

Defendant

Damon L. Hobdy

DAMON L. HOBDY

Attorney for Defendant

# DATUAN MOUTON

12/04/2023

Date

12/1/2023

---

Date

12/01/23

---

Date

CERTIFICATION OF DEFENDANT

I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those

1 contained in this agreement. No one has threatened or forced me in  
2 any way to enter into this agreement. I am satisfied with the  
3 representation of my attorney in this matter, and I am pleading  
4 guilty because I am guilty of the charges and wish to take advantage  
5 of the promises set forth in this agreement, and not for any other  
6 reason.

7 DocuSigned by:



076A8EABC2204AB...

12/1/2023

8 RAYVIONE DATUAN MOUTON  
Defendant

9 Date

10 CERTIFICATION OF DEFENDANT'S ATTORNEY

11 I am RAYVIONE DATUAN MOUTON's attorney. I have carefully and  
12 thoroughly discussed every part of this agreement with my client.  
13 Further, I have fully advised my client of his rights, of possible  
14 pretrial motions that might be filed, of possible defenses that might  
15 be asserted either prior to or at trial, of the sentencing factors  
16 set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines  
17 provisions, and of the consequences of entering into this agreement.  
18 To my knowledge: no promises, inducements, or representations of any  
19 kind have been made to my client other than those contained in this  
20 agreement; no one has threatened or forced my client in any way to  
21 enter into this agreement; my client's decision to enter into this  
22 agreement is an informed and voluntary one; and the factual basis set  
23 forth in this agreement is sufficient to support my client's entry of  
24 guilty plea pursuant to this agreement.

25 Damon L. Hobdy

12/01/23

26 DAMON L. HOBDY  
27 Attorney for Defendant RAYVIONE  
DATUAN MOUTON

28 Date